

**NEWPORT BEACH PLANNING COMMISSION MINUTES**  
**Council Chambers – 3300 Newport Boulevard**  
**Thursday, September 20, 2012**  
**REGULAR MEETING**  
**6:30 p.m.**

I. **CALL TO ORDER** - The meeting was called to order at 6:30 p.m.

II. **PLEDGE OF ALLEGIANCE** – Chair Toerge

III. **ROLL CALL**

PRESENT: Ameri, Brown, Hillgren, Kramer, Myers, Toerge, Tucker  
ABSENT (Excused): None

Staff Present: Kimberly Brandt, Community Development Director; Brenda Wisneski, Deputy Community Development Director; Leonie Mulvihill, Assistant City Attorney; Tony Brine, City Traffic Engineer; Melinda Whelan, Assistant Planner; Gregg Ramirez, Senior Planner

IV. **PUBLIC COMMENTS**

Chair Toerge invited public comment on items that are not on the agenda.

Jim Petrilli commented on the Balboa Village Implementation Plan and spoke in opposition to allowing an RV Park in the Balboa parking lot in the off-season. He noted that parks used in comparison are not near residences or the pier and felt it would be bad for the Village. He expressed concerns regarding views being blocked by the RVs and possible decreases in property values and noted that Balboa Village is not a camping area. He submitted a copy of a letter submitted to Council.

Chair Toerge explained that the plan has been considered by the Planning Commission and will be presented to Council at its next meeting and suggested that he attend and address Council at that meeting.

Dan Purcell expressed concerns regarding providing adequate notice to affected parties. He reported that he will attend the Council meeting to speak in support of Mr. Petrilli's comments.

There being no others wishing to address Council, Chair Toerge closed the public comments portion of the meeting.

V. **REQUEST FOR CONTINUANCES** - None

VI. **CONSENT ITEMS**

**ITEM NO. 1 MINUTES OF SEPTEMBER 6, 2012**

**Recommended Action:** Approve and file

**Motion** made by Commissioner Tucker and seconded by Commissioner Myers, and carried 6 – 1, to approve the minutes of the Planning Commission meeting of September 6, 2012, Study Session, as amended.

Interested parties were invited to address the Commission. There was no response and Chair Toerge closed public comments for this item.

AYES: Ameri, Brown, Hillgren, Kramer, Myers and Tucker  
NOES: None  
ABSTENTIONS: Toerge  
ABSENT (Excused): None

**Motion** made by Commissioner Brown and seconded by Chair Toerge, and carried 7 – 0, to approve the minutes of the Planning Commission meeting of September 6, 2012, regular meeting, as amended.

Interested parties were invited to address the Commission. There was no response and Chair Toerge closed public comments for this item.

AYES: Ameri, Brown, Hillgren, Kramer, Myers, Toerge and Tucker  
NOES: None  
ABSTENTIONS: None  
ABSENT (Excused): None

## **VII. PUBLIC HEARING ITEMS**

### **ITEM NO. 2 Bristol Chevron Service Station (PA2012-073) Site Location: 2121 Bristol Street**

Chair Toerge read title to the aforementioned item and called for a report from staff.

Assistant Planner Melinda Whelan presented details of the report addressing location, background, existing conditions, details of the proposed project, compliance with service station guidelines and standards, landscaping, proposed site plan, noise impacts and results of an acoustical study provided by the applicant, the proposed ABC license and related considerations by staff and a report provided by the Police Department in support of the project including standard conditions. Ms. Whelan addressed CEQA exemptions, verification of the circulation element policy for driveway consolidation and a project-specific condition of approval regarding width of the driveway along Irvine Avenue and additional landscaping to enhance the corner. She presented recommendations as stated and corrected in the report.

Vice Chair Hillgren inquired regarding signage standards for service stations and specialty stores. Ms. Whelan responded that the Municipal Code allows additional signage for pricing and canopies in service stations and that this project is conditioned to meet all Zoning Code requirements for signs.

In reply to Commissioner Myers's inquiry regarding tables on handwritten page 31 of the report and the recommendation for approval of the ABC license, Ms. Whelan reported that Section 048.030 of the Zoning Code requires that staff consider factors for reviewing alcohol sales and to obtain reports from the Police Department. The information provided by the Police Department analyzes the adjacent reporting district and reporting district number 31 has a high number of residential uses and a low number of commercial uses. She stated the Police Department concluded that their recommendation would be to support the overall project and the addition of a Type 20 ABC license.

Community Development Director Kimberly Brandt reported that reporting district number 33 is the district where the gas station is located. For contrast, reporting district number 31 is primarily residential.

Senior Planner Gregg Ramirez noted that crime rate is based on population and that the rate may be lower in district 31 because of increased number of residences in the district. The crime rate is higher in district 33 because of the lower number of residences and higher number of businesses.

Commissioner Ameri inquired regarding uses adjacent to the boundary of the car wash. Ms. Whelan reported there is a Del Taco (fast food restaurant), parking lot and Minute King Mini-Mart. She added that there are no residential units on that side of the street.

Commissioner Ameri expressed concerns with noise associated with the car wash.

In response to Commissioner Brown's inquiry regarding the purpose of narrowing the driveway on Irvine Avenue, Ms. Whelan reported that it will enhance landscaping on the corner and brings the driveway to the minimum requirement for the two-way circulation. Ms. Whelan noted that it will have no impacts.

Interested parties were invited to address the Commission on this item.

Larry Tidball, Stantec Inc., on behalf of Chevron, indicated support for the staff report noting this is a corporately-owned site and is viewed as a flag-ship operation where Chevron sets an example for the franchisees. He addressed on-going training of their staff to ensure that products are sold in a responsible manner. He addressed the site, circulation, fuel-truck deliveries, rationale for narrowing the driveway and addressed Condition No. 35, relative to access of fuel delivery trucks on non-peak hours. He explained the automated fuel delivery process and the need to be able to make deliveries at any time. He requested that the condition be stricken because of possible problems with the restrictions.

Vice Chair Hillgren stated that he was pleased to learn this is a corporately-owned store and inquired regarding the training process.

Mr. Tidball reported that Chevron has a three-day training class for new employees and that much of the training focuses on age-restricted materials (tobacco or alcohol sales). Site-specific restrictions are included and cameras capture all sales transactions. He addressed landscaping including implementation of Bristol Street revitalization specifications as well as signage noting that all signage will comply with City ordinances. He reported that point-of-sale advertising will be included but that no alcohol-related promotions will be done outside.

In response to Commissioner Tucker's inquiry, Ms. Whelan noted that the use permit and the right to have an alcohol license run with the land. He noted that if there is a conflict between the plans and the Code relative to signage, the requirements of the Code prevail. He complemented the applicant for the landscape plan.

Vahe Poladian, property owner at 3530, 3520 and 3500 Irvine Avenue, expressed concerns regarding possible effects of the proposed project on his property and noted that the rear lot is not a storage facility but has been residential all along. He noted other residential properties surrounding the area. He stated that as a business-owner, selling similar products right next door will increase competition, especially when selling against a corporation and reported that he has a liquor license for his business. He felt that the remodeled gas station including the expanded convenience store may limit the future of their properties and businesses.

Jim Mosher reported submitting written comments and addressed a condition regarding glare from lighting, emissions during the construction period and allowing trucks to idle for 30 minutes and noted that the City does not need two adjacent convenience stores that sell alcohol.

Chair Toerge clarified the condition regarding lighting.

George Abraham, owner of a nearby Arco gas station, reported selling the same items as proposed by Chevron.

There being no others wishing to address the Commission, Chair Toerge closed public comments for this item.

Chair Toerge noted that it is not the Commission's job to thwart competition and stated that the properties are zoned appropriately.

Commissioner Ameri inquired regarding Code requirements limiting the number of liquor stores in an area.

Assistant City Attorney Leonie Mulvihill reported that there is no threshold limiting the number of stores but rather findings are required relative to compatibility, as to the surrounding area and the health, welfare and safety of the public. The number may have an impact on the findings and that is why staff requested input from the Police Department.

Commissioner Ameri questioned if it economically makes sense to have three liquor stores next to each other.

Assistant City Attorney Mulvihill stated that the Commission is making a decision regarding land use of the property, neighborhood compatibility, consistency with the General Plan and the Municipal Code, under the Police power of the City. That is a different inquiry than an economic analysis as to need. The Commission is making a decision in the findings as to appropriateness of additional on-site alcohol sales.

Commissioner Ameri felt that the economic issue should be taken into account.

**Motion** made by Commissioner Kramer and seconded by Commissioner Brown, and carried 6 - 1, to adopt Resolution 1893 approving Conditional Use Permit No. UP2012-012 with conditions and as changed regarding Condition No. 35, deleting the second sentence relative to access of fuel delivery trucks during peak hours.

Commissioner Tucker requested adding a sentence under "signage" indicating that if there is any conflict between the plans and the Zoning Code, the latter shall prevail.

Commissioner Kramer agreed to the addition suggested by Commissioner Tucker and agreed to allowing construction truck idling time from 30 minutes to five minutes.

Commissioner Myers suggested adding a condition regarding reconsideration of the alcohol license should the property be sold in the future. Commissioner Kramer did not agree to that suggestion.

It was noted that matter is not under the Commission's jurisdiction.

Commissioner Brown agreed to the amended motion as stated above.

The applicant's representative agreed to the proposed changes in the conditions as stated above.

AYES: Brown, Hillgren, Kramer, Myers, Toerge and Tucker  
NOES: Ameri  
ABSTENTIONS: None  
ABSENT (Excused): None

**ITEM NO. 3 Davidson-Took Variance (PA2012-108)**  
**Site Location: 201 Sapphire Avenue**

Chair Toerge read title to the aforementioned item and called for a report from staff.

Senior Planner Gregg Ramirez presented details of the report noting that the applicant is requesting a variance to encroach 7 feet into the required 10-foot rear setback and to exceed the maximum allowed floor area limit of 1,100 square feet by an additional 340 square feet. He addressed location, existing conditions, prior sub-divisions, floor area limit relative to the allowed "typical" lot in the area, setbacks, site plan, and consistency with other lots on Balboa Island, findings and recommendations.

Interested parties were invited to address the Commission on this item.

Ian Harrison, architect, offered to respond to questions and commented on previous projects and considerations. He addressed encroachments noting they pertain to overhangs.

M.K. McCrary, owner of the other half of the subject lot (804 Park Avenue), reported that she has many questions and concerns and that she contacted a real estate attorney, Mr. Robert Lagate, who suggested that she request a continuance to allow him time to review the matter with her.

Dan Purcell reported having seen similar situations and encouraged the Commission to continue the item pursuant to the neighbor's request.

Jim Mosher commented on the possibility of a fence between the two properties which would further reduce the area between the two houses.

There being no others wishing to address the Commission, Chair Toerge closed public comments for this item.

Commissioner Kramer stated that if the applicant wishes to continue the matter, he would be in favor and, if not, he would favor approving the item.

Commissioner Tucker noted similar types of situations with lots that were subdivided prior to the City's established ordinance.

Commissioner Ameri asked if the owner is willing to continue the matter.

Mr. Harrison indicated that the owner has communicated to Ms. McCrary regarding the proposed project, and stated that he would like to proceed with the project at this time.

**Motion** made by Commissioner Tucker and seconded by Commissioner Kramer, and carried 7 - 0, to adopt Resolution No. 1894 approving Variance No. VA2012-004 and including corrections made to the staff report by Mr. Mosher.

Chair Toerge advised Ms. McCrary that there is a process, within the next fourteen days, by which she can appeal the decision to Council.

AYES: Ameri, Brown, Hillgren, Kramer, Myers, Toerge and Tucker  
NOES: None  
ABSTENTIONS: None  
ABSENT (Excused): None

Community Development Director Brandt noted that Planning staff is available to meet with Ms. McCrary to review and explain the proposal.

## **VIII. STAFF AND COMMISSIONER ITEMS**

### **ITEM NO. 4 MOTION FOR RECONSIDERATION - None**

### **ITEM NO. 5 COMMUNITY DEVELOPMENT DIRECTOR'S REPORT**

Ms. Brandt reported that the Planning Commission meeting of October 4, 2012, will begin at 6:30 p.m. which will include a study session on the Uptown Newport Project.

Commissioner Tucker asked that staff ensure that notice for this item is described in broad terms relative to the draft EIR and comments. He reported that he will comment on the item on October 4th but will be unable to attend the October 18th meeting.

Ms. Brandt also announced an additional study session on the Uptown Newport Project on October 18th, which will start at 4:30 p.m. She also noted that the Telecommunications Ordinance will be presented to the Commission at a study session on November 8, 2012.

She reported that staff has been evaluating the reuse for the current City Hall property. The evaluation has included contracting with consultants to obtain economic and fiscal information regarding two potential land-use projects for the site. The economic and fiscal findings will be presented to Council on September 25, 2012.

In response to an inquiry from Commissioner Ameri, Ms. Brandt reported that Council will be presented with a Hotel Marketing and Feasibility Study as well as an economic and fiscal analysis for a hotel use and an apartment use for the property.

### **ITEM NO. 6 ANNOUNCEMENTS ON MATTERS THAT THE PLANNING COMMISSION MEMBERS WOULD LIKE PLACED ON A FUTURE AGENDA FOR DISCUSSION, ACTION, OR REPORT.**

Vice Chair Hillgren reported attending a recent Bicycle Safety Committee meeting, referenced recent bicycle-related fatalities in the City and noted it was well attended. He reported on organizational challenges with the Committee's agenda and expressed interest in what the Planning Commission could be doing to increase bicycle safety in the City. He expressed concerns with a lack of solutions generated by the Committee and encouraged the Commission to be proactive on this issue.

Commissioner Tucker was unsure whether the impetus for changes in policies would come from the Planning Commission. He agreed with Vice Chair Hillgren's comments and hoped to receive direction for involvement by the Commission.

Vice Chair Hillgren acknowledged the limitations and expressed concerns with the lack of developing solutions.

Commissioner Ameri agreed with the need to focus on traffic and safety aspects rather than accommodations. He questioned what steps can be taken so that the issue is considered, not only by the Ad Hoc Committee, but by other concerned groups.

City Traffic Engineer Tony Brine reported that there has been a lot of work done by staff and the Bicycle Safety Committee members prior to the most recent meeting regarding safety improvements that will be implemented in certain sections of the City. He reported that the agenda had been set and was quickly set to open a public discussion because of the recent accidents.

Vice Chair Hillgren stressed the need to be more proactive, as leaders, and that the Committee should have been prepared with a presentation regarding those recent issues. He stated that the City must be ready to address the issues, especially because of the relevancy.

Chair Toerge encouraged sending comments and concerns to the Committee since they are in a position to address them.

#### **ITEM NO. 7 REQUESTS FOR EXCUSED ABSENCES**

Commissioner Tucker reported that he will be absent from the Planning Commission meeting of October 18, 2012.

#### **IX. ADJOURNMENT**

There being no further business to come before the Planning Commission, the meeting was adjourned at 7:54 p.m.

The agenda for the Regular Meeting was posted on September 14, 2012, at 2:10 p.m. on the City Hall Bulletin Board located outside of the City of Newport Beach Administration Building.

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Michael Toerge, Chairman

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Fred Ameri, Secretary